

AMENDED IN SENATE JULY 23, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 591

Introduced by Assembly Member De La Torre

February 25, 2009

An act to add ~~Section 1385.5~~ *Sections 1385.5 and 1363.08* to the Health and Safety Code, and to amend Section 754 of, and to add ~~Section 10113.96~~ *Sections 10113.96 and 10123.133* to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 591, as amended, De La Torre. Insurance: referral fees: health plans and insurance: ~~filings~~. *filings: identification cards*.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance.

This bill would require health care service plans ~~and to annually file with the Department of Managed Health Care a copy of each of their plan contracts issued or outstanding in this state as of the end of the previous calendar year and a list of the marketing names used for those contracts, if any. The bill would require~~ health insurers to annually file with ~~the Director of the Department of Managed Health Care or the Insurance Commissioner~~ a list of their ~~health care service plan products or~~ health insurance policies issued or outstanding in this state in the

previous calendar year with more than 50,000-subscribers-and-enrollees or insureds, including the form number and marketing name for those products or policies. The bill would require the ~~departments~~ *Department of Insurance* to use those form numbers and marketing names when tracking the associated ~~plans and products~~ or insurers and policies.

The bill would also require a health care service plan or health insurer that issues identification cards to enrollees or insureds to include certain additional information in those cards and would require a plan or insurer to update cards issued to enrollees or insureds prior to January 1, 2010, with this additional information, as specified.

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

Under existing law, it is unlawful for a person to solicit, receive, offer, or pay a referral fee for the referral of an individual for the furnishing of services or goods for which the person knows or should have known that whole or partial reimbursement is or may be made by an insurer. Existing law makes a violation of those provisions a misdemeanor, punishable by a fine not to exceed \$1,000 for each violation.

This bill would increase that penalty to \$5,000 for each violation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1385.5 is added to the Health and Safety~~
- 2 ~~Code, to read:~~
- 3 ~~1385.5. (a) A health care service plan shall, by June 30 of each~~
- 4 ~~year, file with the department a list of its health care service plan~~
- 5 ~~products with more than 50,000 subscribers and enrollees issued~~
- 6 ~~or outstanding in this state as of the end of the previous calendar~~
- 7 ~~year. This list shall identify each type of product by the form~~
- 8 ~~number approved by the department and by marketing name.~~
- 9 ~~(b) The department shall use the form number and marketing~~
- 10 ~~name provided pursuant to subdivision (a) when tracking the~~

1 associated health care service plan product or health care service
2 plan under this chapter.

3 (e) ~~The filing required by this section shall be in addition to the~~
4 ~~annual filing required under Section 1358.225.~~

5 *SECTION 1. Section 1385.5 is added to the Health and Safety*
6 *Code, to read:*

7 *1385.5. A health care service plan shall, by June 30 of each*
8 *year, file with the department a copy of each of its plan contracts*
9 *issued or outstanding in this state as of the end of the previous*
10 *calendar year and a list of the marketing names used for those*
11 *contracts, if any.*

12 *SEC. 2. Section 1363.08 is added to the Health and Safety*
13 *Code, to read:*

14 *1363.08. If a health care service plan issues identification*
15 *cards to enrollees, the cards shall identify the department as the*
16 *entity that regulates the plan and shall include, but not be limited*
17 *to, the appropriate telephone number of the department that an*
18 *enrollee may call for purposes of obtaining assistance or*
19 *information about submitting a grievance to either the plan or the*
20 *department pursuant to subdivision (b) of Section 1368. A plan*
21 *shall update identification cards issued to enrollees prior to*
22 *January 1, 2010, with the information required by this section*
23 *during the plan's next annual reissuance of the cards or, if the*
24 *plan does not annually reissue cards, by July 1, 2010.*

25 ~~SEC. 2.~~

26 *SEC. 3. Section 754 of the Insurance Code is amended to read:*

27 *754. (a) It is unlawful for any person to solicit, receive, offer,*
28 *or pay any referral fee for the referral of an individual for the*
29 *furnishing of services or goods for which the person knows or*
30 *should have known that whole or partial reimbursement is or may*
31 *be made, directly or indirectly, by any insurer. As used in this*
32 *section, a referral fee is a fee paid by a person furnishing goods*
33 *or services to another in return for the referral of an individual to*
34 *that person for the furnishing of services or goods. It includes any*
35 *referral fee, kickback, bribe, or rebate, whether made directly or*
36 *indirectly, overtly or covertly, or in cash or in kind. This*
37 *subdivision does not apply to any of the following:*

38 *(1) Discounts or similar reductions in prices.*

39 *(2) Referral fees between attorneys if legal services are provided*
40 *pursuant to a contingency fee arrangement if any referral fee is*

1 consistent with the Rules of Professional Conduct of the State Bar
2 of California.

3 (b) This section applies to all forms of insurance covering a
4 motor vehicle, including commercial and personal lines, and
5 comprehensive coverage, property damage coverage, collision
6 coverage, and liability coverage.

7 (c) A violation of this section is a misdemeanor punishable by
8 a fine not to exceed five thousand dollars (\$5,000) for each
9 violation. Proceedings to enforce this section may be brought by
10 any district attorney or other prosecuting attorney.

11 ~~SEC. 3.~~

12 *SEC. 4.* Section 10113.96 is added to the Insurance Code, to
13 read:

14 10113.96. (a) A health insurer shall, by June 30 of each year,
15 file with the commissioner a list of its health insurance policies
16 with more than 50,000 insureds issued or outstanding in this state
17 as of the end of the previous calendar year. This list shall identify
18 each type of policy by the form number approved by the
19 department and by marketing name.

20 (b) The department shall use the form number and marketing
21 name provided pursuant to subdivision (a) when tracking the
22 associated health insurance policy or health insurer under this part.

23 (c) The filing required by this section shall be in addition to the
24 annual filing required under Section 10192.13.

25 *SEC. 5.* Section 10123.133 is added to the Insurance Code, to
26 read:

27 10123.133. *If a health insurer issues identification cards to*
28 *insureds, the cards shall identify the department as the entity that*
29 *regulates the insurer and shall include, but not be limited to, the*
30 *toll-free telephone number of the unit of the department that deals*
31 *with consumer affairs. A health insurer shall update identification*
32 *cards issued to insureds prior to January 1, 2010, with the*
33 *information required by this section during the insurer's next*
34 *annual reissuance of the cards or, if the insurer does not annually*
35 *reissue cards, by July 1, 2010.*

36 ~~SEC. 4.~~

37 *SEC. 6.* No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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